

1 Mark T. Dooks - State Bar No. 123561
mtd@birdmarella.com
2 Thomas V. Reichert - State Bar No. 171299
tvr@birdmarella.com
3 BIRD, MARELLA, BOXER, WOLPERT,
NESSIM, DROOKS & LINCENBERG, P.C.
4 1875 Century Park East, 23rd Floor
Los Angeles, California 90067-2561
5 Telephone: (310) 201-2100
Facsimile: (310) 201-2110

6 Martin L. Perschetz (admitted *pro hac vice*)
martin.perschetz@srz.com
7 Gary Stein (admitted *pro hac vice*)
gary.stein@srz.com
8 William M. Uptegrove (admitted *pro hac vice*)
william.uptegrove@srz.com
9 SCHULTE ROTH & ZABEL LLP
10 919 Third Avenue
New York, New York 10022-3902
11 Telephone: (212) 756-2000
Facsimile: (212) 593-5955

12 Attorneys for Defendants Hansen Natural
13 Corporation, Rodney C. Sacks, Thomas J.
Kelly and Hilton H. Schlosberg
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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION**
17

18 MARCELO CUNHA, Individually and
19 on Behalf of All Others Similarly
Situating,

20 Plaintiff,

21 vs.

22 HANSEN NATURAL CORPORATION,
23 RODNEY C. SACKS and HILTON H.
SCHLOSBERG,

24 Defendants.
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CASE NO. EDCV08-1249 SGL (JCx)
[Consolidated with EDCV08-1278 SGL
(JCx)]

**Notice of Motion and Motion to
Dismiss the Consolidated Class Action
Complaint**

Date: March 15, 2010
Time: 10:00 a.m.
Crtrm.: Hon. Stephen G. Larson

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Please take notice that on March 15, 2010 at 10:00 a.m. in Courtroom 1 of the above-captioned Court, located at 3470 Twelfth Street, Riverside, CA 92501, Defendants Hansen Natural Corporation (“Hansen”), Rodney C. Sacks, Thomas J. Kelly and Hilton H. Schlosberg will, and hereby do, move pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, as well as the Private Securities Litigation Reform Act, for an order dismissing the Consolidated Class Action Complaint in its entirety.

This motion is based on the ground that the Complaint fails to allege facts upon which relief can be granted. Specifically, the Complaint fails to allege: (a) false or misleading statements or omissions; (b) scienter; or (c) loss causation, with the requisite particularity required by law.

This motion is based upon this Notice of Motion, the attached Memorandum of Points and Authorities, the Request for Judicial Notice filed contemporaneously herewith, the entire record herein, and such further briefing and argument as the Court may hear.

This motion is made following a meeting of counsel in compliance with Local Rule 7-3, which occurred on September 30, 2009. At that meeting, the parties were not

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1 able to agree on a resolution of the matters raised in this motion or on the filing of an
2 amended pleading that would address the issues raised in this motion.

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4 DATED: November 16, 2009

Mark T. Dooks
Thomas V. Reichert
BIRD, MARELLA, BOXER, WOLPERT,
NESSIM, DROOKS & LINCENBERG, P.C.

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8 Martin L. Perschetz
9 Gary Stein
10 William M. Uptegrove
11 SCHULTE ROTH & ZABEL LLP

12 By: /s/Thomas V. Reichert

13 Thomas V. Reichert
14 Attorneys for Defendants Hansen Natural
15 Corporation, Rodney C. Sacks, Thomas J. Kelly
16 and Hilton H. Schlosberg
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